there by the respondent with intent to transport them to Massachusetts, lawfully imported into the United States, and while in transit through Michigan, were seized by the game warden. Such action seems in violation of the interstate commerce clause of the federal constitution and, according to OSTRANDER, J., the statute was never intended to have application to facts like these. In *Railroad Co.* v. *Husen*, 95 U. S. 465-472, Mr. JUSTICE STRONG said: "While we unhesitatingly admit that the state may pass sanitary laws; * * * while it may prevent persons or animals suffering under contagious or infectious diseases * * * from entering the state; while * * * it may establish quarantine and reasonable inspection laws, it may not interfere with transportation into or through the state, beyond what is absolutely necessary for its self-protection. It may not * * * prohibit or burden either foreign or interstate commerce." See also *Bowman* v. *C. and N. W. Ry Co.*, 125 U. S. 465. It is difficult to see wherein the court could justify its decision under the "police power," for here the health, morals, or safety of the people of the state of Michigan were not in peril, for the fish were not to be consumed by them, neither was their future supply of good food endangered. The statute may be constitutional, but a question may arise as to whether or not it was rightly applied in this case.

CONSTITUTIONAL LAW—HABEAS CORPUS—FORMER JEOPARDY.—The defendant, charged with homicide near the boundary line between C. and N. counties, was tried and acquitted in C. county. *Held*, a subsequent attempt to try him for the same offense as having been committed in N. county, was a violation of Section 14 of Bill of Rights. *Ex parte Davis* (1905),— Tex. —, 89 S. W. Rep. 978.

The question arose on a writ of habeas corpus applied for by the defendant. As to the facts and circumstances necessary to permit the use of such writ, see *Ex parte Degener et al.*, 30 Tex. App. 566 (1891) and *Ex parte Kearby*, 35 Tex. Cr. R. 634 (1896). If the defendant has been tried and acquitted by a court of competent jurisdiction, the state can never again place him on trial for the same offense, no matter how irregular the procedure may have been. See *Mixon* v. *State*, 35 Tex. Cr. R. 458 (1896). The writ of habeas corpus does not perform the office of a writ of error or an appeal, *Ex parte Terry*, 128 U. S. 305 (1888), and a former conviction cannot be inquired into. See *In re Bogart*, Fed. Cases No. 1596 (1873). Neither is it the proper means to try the issue of a former acquittal, *State* v. *Klock*, 12 So. Rep. 307; and *Brill* v. *State*, 1 Tex. App. 152, nor can it issue to interfere with a lower court's proceedings within its jurisdiction. The real question to be determined is whether or not the court first trying the case was a "court of competent jurisdiction." Here the venue giving the District Court of C. county jurisdiction was proved and therefore its verdict and judgment exonerated the defendant from further prosecution by the District Court of N. county.

CONTRACT FOR SALE OF REALTY—RESCISSION—BRINGING ACTION NOT SUFFICIENT NOTICE OF RESCISSION.—Plaintiff vendee who has received nothing, but has parted with personal property under a contract for the sale of real